

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Newport News Division**

<b>IN RE: JANNA MARIE MATHERLY</b>	)	
	)	
<b>Debtor,</b>	)	<b>Case No. 12-51845-FJS</b>
	)	<b>Chapter 13</b>
<b>and</b>	)	
	)	
<b>ADAM MATHERLY</b>	)	
	)	
<b>Joint Debtor.</b>	)	
<hr/>		
<b>ESSEX BANK</b>	)	
	)	
<b>Movant,</b>	)	
<b>v.</b>	)	
	)	
<b>JANNA MARIE MATHERLY</b>	)	
<b>and</b>	)	
<b>ADAM MATHERLY</b>	)	
<b>and</b>	)	
<b>R. CLINTON STACKHOUSE, JR.,</b>	)	
<b>TRUSTEE</b>	)	
	)	
<b>Respondents.</b>	)	

**ORDER**

This matter came before the Court on April 19, 2013 to be heard upon the Amended Motion for Relief from Automatic Stay filed previously herein by Essex Bank (“Motion”) upon proper notice on all parties in interest to the Motion. Upon the evidence taken and admitted into the record, and the arguments of counsel for Essex Bank, counsel for the

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*Counsel for Essex Bank*

Debtors, and counsel for the Trustee, it is hereby **ORDERED** that the Motion is **GRANTED**, but Essex Bank may not foreclose upon or exercise any other of its rights under state law or the deed of trust with respect to the subject property at 3320 Yarding Way, described more completely as follows:

SCHEDULE A

LOT 19 AS SHOWN ON THAT CERTAIN PLAT OF SUBDIVISION ENTITLED "PLAT OF SUBDIVISION, SECTION VII-A, 'RICHARDSON'S MILL' SECTION 1 AT STONEHOUSE FOR STONEHOUSE DEVELOPMENT COMPANY, LLC, STONEHOUSE DISTRICT, JAMES CITY COUNTY, VIRGINIA" DATED JUNE 6, 2002, PREPARED BY AES CONSULTING ENGINEERS, WILLIAMSBURG, VIRGINIA, WHICH PLAT OF SUBDIVISION IS RECORDED AS DOCUMENT NUMBER 020021127 IN PLAT BOOK 87, PAGES 58-60, IN THE CLERK'S OFFICE OF THE CIRCUIT COURT FOR THE CITY OF WILLIAMSBURG AND COUNTY OF JAMES CITY VIRGINIA.

BEING THE SAME REAL ESTATE CONVEYED TO ADAM SCOTT MATHERLY AND JANNA MARIE POSEY MATHERLY, TENANTS BY THE ENTIRETY WITH THE RIGHT OF SURVIVORSHIP, BY DEED FROM RBC BANK (USA) F/K/A RBC CENTURA BANK, DATED OCTOBER 26, 2009 AND RECORDED OCTOBER 30, 2009 IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF JAMES CITY COUNTY, VIRGINIA AS INSTRUMENT NO. 090029183.

so long as the Debtors comply with the following conditions:

1. Debtors shall pay in full and maintain current all post-petition real estate taxes due and owing on the subject property at 3320 Yarding Way;
2. Debtors shall pay in full all premiums and maintain in force at all times any and all insurance policies regarding the subject property at 3320 Yarding Way as required by the loan and security documents from Essex Bank pertaining thereto; and
3. Debtors shall, commencing no later than May 15, 2013, and each month thereafter by the 15<sup>th</sup> of each month, make monthly adequate protection payments to Essex Bank in the amount of \$3,750.00, to be credited to the loan secured by the subject property at 3320 Yarding Way; and

It is further **ORDERED** that the conditions set forth above by which Debtors may keep possession of the subject property at 3320 Yarding Way and not be subject to any state law or deed of trust remedies by Essex Bank shall expire on April 30, 2014, after which Essex Bank may exercise its remedies under state law and the deed of trust, absent further Order of this Court; and

It is further **ORDERED** that upon default by the Debtors with respect to any one or more of these three conditions set forth above, Essex Bank may proceed by providing written notice of such default to the Debtors, their counsel, and the Trustee via certified mail and proceed with foreclosure or other allowable remedies without further Order if Debtors fail to cure all such defaults within 10 days of the date of such notice; and

It is further **ORDERED** that, notwithstanding any state or local law, regulation, custom or policy to the contrary, payments made post-petition by the Debtors to James City County for real estate taxes shall be credited and applied first to tax liabilities arising after the date of the filing of the Debtors' Chapter 13 Petition; and

It is further **ORDERED** that final disposition of the Motion is continued to the date of the confirmation hearing for the Debtors' Second Modified Chapter 13 Plan, at which time further evidence and argument may be presented as appropriate without further notice of the same, provided that any party in interest may timely file further pleadings directed to the subjects of the Motion as provided for by the Rules; and

It is further **ORDERED** that the Clerk shall send a copy of this Order, once entered, to the Debtors, counsel for the Debtors, Counsel for Essex Bank, and the Trustee, and to such other necessary parties as the Court may direct.

DATE: May 7 2013

/s/ Frank J. Santoro  
Frank J. Santoro  
United States Bankruptcy Judge

NOTICE OF JUDGMENT OR ORDER  
Entered on Docket

5/7/2013

SEEN AND AGREED EXCEPT AS TO CONDITIONS FORBEARING FORECLOSURE  
AND CREDITOR'S REMEDIES:

/s/ David G. Browne  
David G. Browne (VSB# 65306)  
MeyerGoergen P.C.  
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Richmond, VA 23226  
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E-mail: browne@mg-law.com  
*Counsel for Essex Bank*

HAVE SEEN:

/s/ Ryan S. Marion (by David G. Browne, with permission via e-mail  
Ryan S. Marion (VSB # 80647) on May 3, 2013)  
WILSON & WILSON, PLLC  
744-A Thimble Shoals Boulevard  
Newport News, Virginia 23606  
Telephone – (757) 873-6620  
Facsimile – (757) 873-1938  
rsm@wilsonlaw.org  
*Counsel for Debtors*

/s/ Kelly M. Barnhart, Counsel for Trustee (by David G. Browne, with permission via  
R. Clinton Stackhouse, Jr. (VSB # 19358) e-mail on May 6, 2013)  
7021 Harbour View Blvd., Suite 101  
Suffolk, VA 23435  
(757) 333-4000 -Telephone  
(757) 333-3434 - Facsimile  
administrator@rcsch13.com  
*Chapter 13 Trustee*

Certificate of Notice Page 6 of 7  
United States Bankruptcy Court  
Eastern District of Virginia

In re:  
Janna Marie Matherly  
Adam Matherly  
Debtors

Case No. 12-51845-FJS  
Chapter 13

**CERTIFICATE OF NOTICE**

District/off: 0422-6

User: nobilea  
Form ID: pdforder

Page 1 of 2  
Total Noticed: 1

Date Rcvd: May 07, 2013

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on May 09, 2013.  
db/jdb +Janna Marie Matherly, Adam Matherly, 3320 Yarding Way, Toano, VA 23168-9630

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.  
NONE. TOTAL: 0

\*\*\*\*\* BYPASSED RECIPIENTS \*\*\*\*\*

NONE. TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.  
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: May 09, 2013

Signature:



District/off: 0422-6

User: nobilea  
Form ID: pdforder

Page 2 of 2  
Total Noticed: 1

Date Rcvd: May 07, 2013

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on May 7, 2013 at the address(es) listed below:

Angela Nicole Watson on behalf of Creditor Wells Fargo Bank, National Association, as trustee for the holders of the First Franklin Mortgage Loan Trust 2006-FF15 Mortgage Pass-Through Certificates, Series 2006-FF15 anwatson@closingsource.net, gmullen@closingsource.net; khildebeidel@closingsource.net; vaecf@closingsource.net  
David Gerard Browne on behalf of Creditor Essex Bank browne@mg-law.com  
R. Clinton Stackhouse, Jr. administrator@rcschl3.com  
Ryan Seth Marion on behalf of Joint Debtor Adam Matherly rsm@wilsonlaw.org, aaw@wilsonlaw.org  
Ryan Seth Marion on behalf of Debtor Janna Marie Matherly rsm@wilsonlaw.org, aaw@wilsonlaw.org  
Steven L. Brown on behalf of Creditor Newport News Shipbuilding Employees' Credit Union d/b/a BayPort Credit Union, Inc. brown@wolriv.com

TOTAL: 6